STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

February 11, 2004

Alternate to Agenda ID #3228
Quasi-Legislative

TO: PARTIES OF RECORD IN RULEMAKING 01-08-028

Enclosed is Alternate Draft Decision of Commissioner Lynch to the Draft Decision of Administrative Law Judge (ALJ) Kim Malcolm previously mailed to you on January 27, 2004

When the Commission acts on this agenda item, it may adopt all or part of it as written, amend or modify it, or set aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the alternate draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at http://www.cpuc.ca.gov. Pursuant to Rule 77.6, opening comments shall not exceed 15 pages. Finally, comments and reply comments with a certificate of service shall be filed with the Commission's Docket Office and copies shall be served on all parties on the same day of filing. The Commissioners and ALJ shall be served separately by overnight service. Please also provide an electronic copy of the comments and reply comments to Cheryl Cox at cxc@cpuc.ca.gov.

/s/ ANGELA K. MINKIN by PSW
Angela K. Minkin, Chief
Administrative Law Judge

ANG:epg

Enclosure

Decision **ALTERNATE DECISION OF COMMISIONER LYNCH**
(Mailed 2/11/2004)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs.	Rulemaking 01-08-028 (Filed August 23, 2001)

INTERIM OPINION ADOPTING FUNDING FOR 2003-04 ENERGY EFFICIENCY PROGRAMS AND ADDRESSING CERTAIN PETITIONS AND MOTIONS

I. Summary

This decision approves $71 million in funding for energy efficiency programs for a two-year period beginning in 2004. The energy efficiency programs for which we approve funding in this order are in addition to those funded in Decision (D.) 03-12-060. In that order, we disbursed $507 million to several companies, government agencies and organizations to undertake a variety of programs offered to residential, commercial and industrial customers during 2004 and 2005. These programs are funded through the "public goods charge" (PGC) funds. Additionally, $245 million in revenues has been set aside for energy procurement by electric utilities as ordered in D03-12-060.

We issue this second decision consistent with D.03-12-060, which held back $67 million in PGC funding in order to reevaluate several types of energy efficiency program proposals that parties presented in fall 2003 for the 2004-05

funding cycle. We also apply $4.47 million of PG&E's unspent, uncommitted 2003 funds to 2004-05 programs.

Like the programs approved in D.03-12-060, the programs we fund today build on past successes, seek to incorporate new ideas and technologies, develop a more integrated approach to energy resource procurement and complement the state's Energy Action Plan. These programs are funded as part of a larger effort to reduce the per capita use of electricity in California, reduce costs, and improve the electric system's reliability for California customers.

The funding allocated in today's order is for the programs shown in Attachment 1.

We also terminate the "bridge funding" we approved to permit the continuation of 2003 programs through the date we allocate the remaining $67 million. Any amount of bridge funding spent on programs we approve in this decision will be incorporated as part of each program budget authorized for those programs in 2004-05.

Finally, we resolve several outstanding petitions and motions concerning various aspects of our energy efficiency programs.

Allocation of 2004-2005 PGC Funds in D.03-12-060

	PG&E	SCE	SDG&E	SCG	TOTAL
2004 and 2005 Electric PGC **[1]**	$215,180,000	$180,000,000	$64,800,000	-	459,980,000
2004 and 2005 Gas Public Purpose Program (PPP) Funds	$25,776,000	-	$11,000,000	$53,990,000	90,766,000
Unspent/Uncommitted Energy Efficiency Budget (1998-2002) **[2]**	$15,444,362	$1,516,272	$389,739	$2,183,000	19,533,373
Estimated Interest for Electric PGC Funds/Gas PPP Funds	$1,531,938	$1,176,000	$556,281	($297,072)	2,967,147
TOTAL PGC FUNDS AVAILABLE	**$257,932,300**	**$182,692,272**	**$76,746,020**	**$55,875,928**	**$573,246,520**
Investor-Owned Utilities Statewide Programs	$127,943,329	$89,800,000	$37,641,911	$26,222,908	$281,608,148
Utility Local Programs	$3,245,656	$10,001,439	$4,278,000	$4,755,206	$22,280,301
Utility Partnership Programs	$23,478,022	$14,384,139		$3,752,202	$41,614,363
Total Utility Programs	**$154,667,007**	**$114,185,578**	**$41,919,911**	**$34,730,316**	**$345,502,812**
Non-utility Programs	$53,746,992	$28,129,171	$10,568,750	$6,944,486	$99,389,399
Reserved fee for Utility Contract Administration for Non-Utility programs (5%)	$2,687,350	$1,406,459	$528,438	$347,224	$4,969,470
Total Non-Utility Programs	**$56,434,342**	**$29,535,630**	**$11,097,188**	**$7,291,710**	**$104,358,869**
Total Statewide Marketing and Outreach	**$17,965,588**	**$13,419,506**	**$5,588,820**	**$4,026,086**	**$41,000,000**
EM&V for Statewide Programs	$3,138,245	$3,057,550	$973,088	$632,746	$7,801,628
Energy Division Special Projects	$677,347	$318,698	$133,880	$97,473	$1,227,398
Energy Division Operating Costs	$262,887	$196,383	$81,826	$58,904	$600,000
Other Studies	$2,297,079	$2,001,457	$965,991	$814,491	$6,079,018
Total EM&V and Other Projects	**$6,375,557**	**$5,574,088**	**$2,154,784**	**$1,603,614**	**$15,708,044**
TOTAL APPROVED IN D.03-12-060	**$235,442,493**	**$162,714,801**	**$60,760,703**	**$47,651,726**	**$506,569,724**

Allocation of 2004-2005 PGC Funds in this Decision

IOU Statewide Programs	$7,886,788	$16,408,744	$4,036,666	$5,996,450	$34,328,648
IOU Local Programs	$10,569,988	$1,000,000	$0	$0	$11,569,988
IOU Partnership Programs	$0	$651,023	$5,332,662	$1,223,000	$7,206,685
Total IOU Programs	**$18,456,776**	**$18,059,767**	**$9,369,328**	**$7,219,450**	**$53,105,321**
Non-utility Programs	$2,976,123	$1,236,500	$6,022,846	$650,240	$10,885,709
Reserved fee for IOU Contract Administration for Non-IOU programs (5%)	$148,806	$61,825	$301,142	$32,512	$544,285
Total Non-IOU Programs	**$3,124,929**	**$1,298,325**	**$6,323,988**	**$682,752**	**$11,429,994**
EM&V for Statewide Programs	$908,101	$619,379	$292,000	$322,000	$2,141,480
Total EM&V and Other Projects	**$908,101**	**$619,379**	**$292,000**	**$322,000**	**$2,141,480**
TOTAL FUNDING IN THIS DECISION	**$22,489,806**	**$19,977,471**	**$15,985,316**	**$8,224,202**	**$66,676,796**

GRAND TOTAL	**$257,932,300**	**$182,692,272**	**$76,746,020**	**$55,875,928**	**$573,246,520**

Notes:

[1] San Diego Gas and Electric Company (SDG&E): Pursuant to Advice Letter (AL) 1483-E effective April 1, 2003, approved by the Commission on April 15, 2003.

[2] Pacific Gas & Electric Company (PG&E): Net of Carry-over Funds from Program Year (PY) 1998 - PY 2002 and PG&E's two Motions to shift funds to PY 2003 programs and additional Energy Division staff costs, totaling to $3,975,838. Includes Gas Consumption Surcharge Funds remitted to the State Board of Equalization per Resolution G-3303

II. Background

D.03-08-067 solicited energy efficiency program proposals from any interested individual or entity and set forth several parameters for that solicitation. That order addressed programs that would be funded through the public goods charge or "PGC" and the criteria for evaluating related proposals. The Commission originally received more than 400 separate proposals for more than 200 distinct programs. Proposals came from utilities, non-profit organizations, government agencies and businesses. These proposals sought PGC funding in amounts exceeding $1 billion nearly twice the amount of available funding. An additional $245 million for procurement portfolio programs from Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) was allocated in D.03-12-060.

Commission staff reviewed these proposals and recommended funding for certain programs. Staff used judgment with regard to creating program portfolios for each utility territory, seeking to balance the various policy criteria set by the Commission and considering the funds available. D.03-12-060 describes the staff's evaluation process in more detail.

Issues arose concerning the application of the criteria adopted in D.03-08-067. D.03-12-060 held back $67 million[1] in anticipated PGC funds, directing staff to reevaluate program proposals with the following characteristics: (1) proposals that did not receive at least 60 points for which staff

[1] The order refers to holding back $64 million but the intent of the order was to hold back $67 million. The discrepancy results from an inadvertent error in the tables that listed $3 million for an SDG&E Partnership Program that the order did not fund.

recommended funding; (2) those that received over 60 points for which the staff did not recommend funding; (3) proposals funded by D.03-12-060 but at lower levels than proponents originally proposed; and (4) proposals that were submitted after the deadline or which would have been submitted after the deadline if staff had granted requests for late submittals. D.03-12-060 stated these programs "may merit further consideration" in light of the criteria adopted in D.03-08-067.

D.03-12-060 invited proponents of these kinds of proposals to submit additional support for their proposals, or to submit modified versions of late-filed proposals by January 16, 2004. D.03-12-060 stated our intent to reconsider those program proposals no later than February 26, 2004.

In response to D.03-12-060, the Commission received supporting documents for several proposals by January 16, 2004 and Commission staff evaluated this additional supporting information.

III. 2004-05 Energy Efficiency Program Proposals for Funding with PGC Revenues

This decision adopts many of staff's initial recommendations for funding the $67 million in 2004 – 2005 programs that D.03-12-060 directed staff to reexamine. It also applies $4.47 million of PG&E's 2003 unspent, uncommitted PGC funds to 2004-05 programs adopted here. (FOOTNOTE: These funds are discussed in PG&E's motion dated January 30, 2004, wherein it requests authority to shift $4.47 million from some residential programs to others. We discuss our disposition of that motion more in subsequent sections of this order.) The programs selected today have undergone Commission staff analysis, and additional review by the full Commission and are consistent with our policy statements in D.03-08-067.

In this decision, as well as in D.03-12-060, we have strived through the reexamination of the evaluation process to ensure that the process is consistent, transparent, and provides the best portfolio mix that will further the State's Energy Efficiency goals to achieve maximum energy savings in California by balancing evaluation criteria with the portfolio as a whole. An understanding of the PUC's evaluation process promotes openness and provides proponents valuable information and feedback for improving Energy Efficiency programs in the future. To this end, we both accept and modify staff's recommendations. The creation of a robust portfolio does not rely strictly on the mechanical application of a formula, however, the evaluation process should at least be consistent and apparent. It should take into consideration staff's expertise and experience as well as the need to create a balanced portfolio that reflects the Commission's criteria of cost–effectiveness; comprehensive service; innovation; demonstrated history of success; serving a geographic area in need of programs; and hard-to-reach targets. Nevertheless, we have endeavored to honor our commitment in each instance to choosing those programs that received the highest evaluations for meeting the explicit criteria we adopted in D.03-08-067. In addition, we seek to promote the integrity of the proposal review process by adhering to those criteria.

With that as background and consistent with D.03-12-060, Commission staff re-evaluated certain types of energy efficiency program proposals: (1) those that did not receive at least 60 points for which the staff recommended funding; (2) those that received over 60 points for which staff did not recommend funding; (3) those for which we allocated funding in D.03-12-060 at levels less than originally proposed; and (4) those that the staff rejected because they were submitted late or were not submitted because staff would not accept them late. The Commission received letters providing additional support for 77 program proposals.

The programs we adopt today are summarized in Attachment 1. They include the 16 programs initially recommended for funding in D.03-12-060 but for which the Commission sought further evaluation. We adopt staff's recommendation to fund those 16, although funding levels may vary. We also authorize funding for two program proposals for which staff recommends funding for the first time. Finally, we authorize funding for five programs that received high evaluation by staff, but did not receive a staff funding recommendation. We fund these programs by reducing the budgets of three utility statewide programs that received lower scores and have large budgets in order to better balance the Energy Efficiency portfolio with programs that have direct energy savings or information programs that target important and hard-to-reach segments of the community.

We provide funding for the following 16 programs originally recommended for funding by staff prior to the issuance of D.03-12-060. While all scored below 60 points, further review, in the context of an overall portfolio found that most of these programs promoted local partnerships, reached underserved markets, or otherwise fulfilled policy goals. Most continue funding for existing programs. In reevaluation, we reviewed both the sets of programs that scored highly and those that scored below 60 and in this decision propose a mix from both in order to better balance the overall portfolio with stronger, more highly evaluated proposals in order to better achieve policy goals.

Statewide Residential Retrofit Home Energy Efficiency Survey (SCG, SCE, SDG&E, PG&E) – Continues a retrofit program that targets residential customers with some focus on hard-to-reach customer groups.

Statewide Nonresidential Energy Audit Program (SCG, SCE, SDG&E, PG&E) – This program provides energy efficiency audits to small businesses in collaboration with other utility programs that provide energy efficiency measure installations and rebates.

Statewide Energy Efficiency Education and Training Program (SCG, SCE, SDG&E, PG&E) – This program proposes to continue education programs targeting segments of the building industry as well as residential consumers on how to incorporate energy efficiency measures and programs.

Pacific Energy Center (PG&E) – This continuing program supports a facility in San Francisco that provides training and education to members of the public and segments of the building industry, including architects, engineers, design firms, manufacturers and small businesses in order to promote improved design and construction to California buildings.

Food Service Technology Center (PG&E) – This proposal is an existing program that provides training and education to segments of the food service industry. It is an innovative program and one of only two such resources nationally.

Local Government Initiative Program (SCE) – This program would coordinate with local governments in the delivery of local energy efficiency measures to hard-to-reach segments of the community. We believe that partnering with local governments can be a very effective and mutually beneficial vehicle for communicating with hard to reach targets. To that end and to ensure program success, we direct the program implementer to identify city partners as well as develop at least a broad overview of how it plans to work with each city within 60 days.

University of California/California State University Partnership (SDG&E) - This is an existing program focusing on improved energy conservation at UC/CSU facilities in the San Diego area.

City of Pomona and Southern Califonria Edison Partnership for Energy Efficiency (SCE) – This program would improve energy efficiency for city facilities.

Community Energy Partnership(The Energy Coalition) – This program would provide gas energy efficiency education and hardware at the grass roots level.

San Diego City Schools Retrofit and Partnership Program (SDG&E) – This program would provide energy efficiency measures in local schools, using funds from a recent bond measure in addition to PGC funds.

Spray Head Installation Program for the Food Service Industry (California Urban Water Conservation Council) – This proposal continues a program promoting lower gas and water use in the food service industry, partially funded by affected water utilities targeting hard-to-reach customers in urban and rural communities.

Agricultural Pumping Efficinecy Program (California State University, Fresno) – This proposal continues a program providing technical support and assistance to encourage energy efficiency in various segments of the agriculture industry.

Retrocommissioning Program (Portland Energy Conservation, Inc.) - This program would provide commercial building managers in San Diego with training and technical assistance, complementing similar programs in other areas of the state.

San Diego Region Business Energy Services Team (San Diego Regional Energy Partnership) – This proposal would continue a program offering an array of energy efficiency services targeting hard-to-reach small businesses in the San Diego area.

California Wastewater Process Optimization Program (Quantum Consulting, Inc.) – This proposal would continue a program targeting municipal and agricultural wastewater treatment plants.

San Diego Regional Energy Partnership Technical Assistance Program (San Diego Regional Energy Partnership) – This proposal would continue a program that offers training and education to business and government agencies in the San Diego area that are financially constrained;

Additionally, we authorize funding for the following two additional programs recommended by staff. After evaluating additional information provided by program proposers in January 2004, staff now recommends funding for them.

Residential Duct Services (Energy Analysis Technologies) – This proposal would continue a program for repairing leaky air conditioning ducts in residential properties. This program is innovative and not offered by other providers.

Green Schools Program (Alliance to Save Energy) – This is an expansion of a program educating K-12 students in San Diego about energy efficiency. We direct program implementers to coordinate with similar programs in the territory to avoid duplication.

Additionally, we provide funding for the following programs that were not recommended by staff, but were highly evaluated by them.

Statewide School Energy Efficiency Program(D&R International, $4.8 million) - This program would provide audits, training, and education as well as actual retrofits to K-12 schools in California statewide. Implemented by the California Consumer Services Agency in 2003, D&R would continue this successful effort in 2004-05. This program is particularly innovative in that in actually creates energy efficiency improvements to schools in conjunction with curriculum as well as integration with the home. We direct D&R to coordinate its efforts with other school programs to avoid duplication of effort and promote efficient program management. Commission staff recommended against funding this program on the basis that the contractor had marginal performance in implementing a different program in 2003. D.03-08-067 does not state that we would penalize a contractor for past performance in other program areas but rather that it would provide credit to contractors who could demonstrate success in past program implementation. Although we might have reasonably included such a penalty as one of our criteria, we did not. Such a criteria might also provide an unsupportable advantage to a company that had no track record in the energy efficiency industry even though it had no experience. The financial incentives for meeting program goals we adopted in D.03-12-060 will promote sound program management. We also put all contractors on notice that the program administrator does not make program payments except after receiving reports that demonstrate reasonable performance.

Right Lights Program Turnkey Commercial Lighting Retrofits - (Ecology Action, $3.89 million) – This proposal would expand the geographic area of a successful program implemented by Ecology Action in 2003. It offers audits and rebates for lighting retrofits to small businesses, in cooperation with government agencies. This program is to be expanded in the counties of San Luis Obispo, Fresno, Kern and Santa Barbara in PG&E's territory. Staff noted that this program is one of the most successful, impressive programs funded in 2003. Staff recommended against funding an expansion of this program even though it has been successful, believing the contractor did not have the capacity to expand its program. We reject this reasoning because it is not among the criteria by which we stated we would evaluate program proposals in D.03-08-067. Indeed, D.03-12-060 almost doubled utility program funding without requiring the utilities to provide any evidence that they have the existing capacity for such program expansion. We expect all entities to manage their operations in ways that maximize program delivery. Based on past successful performance, additional supporting information provided, and given that proposer already has a program infrastructure in place, we believe this program has the capacity to expand and create more actual energy savings to the State.

Comprehensive Hard-to-Reach Mobile Home Program – (American Synergy Corp.,$2 million) – This program would expand to SDG&E's territory a successful program implemented in 2003 by American Synergy. It provides direct installations of energy efficiency measures to residents of mobile homes, serving hard-to-reach low-income customers across the state. Staff noted this program as a highly successful, cost-effective program funded in 2003 and it is one of the very few program reaching the moblile home community in California. Staff recommended against funding the SDG&E portion of this program because staff needed to make funding cuts generally and so limited this program's geographic reach. We believe staff should have instead cut back programs that scored lower and are less cost-effective. We adopt funding for this program in SDG&E's territory because it is highly cost-effective and targets a market that is otherwise underserved.

Rural Southern California Counties Energy Savings Program - (ASSERT, Inc., $.2 million) – This program, would provide training about energy savings measures to private charitable organizations that would work with low income residential customers in rural counties in the territories of SCE and SoCalGas. Staff recommended against funding this program because it believed low-income programs should be managed as part of our LIEE program budget. D.03-08-067 did not state that we would reject funding low-income program proposals on this basis. To the contrary, one of our explicit criteria is "diversity of target markets," one of which includes lowincome customers. Another of our explicit criteria relevant to this program is "equity by rate class," which includes the class of customers who pay discounted rates because of their limited incomes. This program will not necessarily be delivered in the same communities as existing LIEE programs and creatively targets a low-income, hard-to-reach market through private charitable organizations. In addition, it would provide the tools for local private community organizations, which would then have the resources to market and promote ongoing energy efficiency information and measures to local customers. ASSERT's PIP should specify how it will coordinate with Commission staff and LIEE program contractors so as not to create duplication with other low-income program in this area. We direct implementer to limit training workshops to one-half day to maximize cost-effectiveness. ASSERT's measurement plans shall include the collection data about energy savings by target customers through these private organizations. We adopt this program because of its efforts in rural communities that would otherwise be underserved and because it targets low-income customers.

Positive Energy Loan Fund – (KEMA-XENERGY, ($1.12 million) – This program, to be offered in PG&E's territory, would provide low interest loans to small commercial customers for energy efficiency investments. This program has an innovative approach utilizing bank partners who already have relationships with the target market and provides an opportunity to test the market for loan incentive programs that impact real investment in actual energy savings. We adopt this program because it is innovative, cost-effective and has the ability to actually track energy savings through the lender. To that end, the program implementer shall identify partner banks within 60 days of this decision. KEMA-XENERGY shall also develop tracking method that would assure customers do not receive double benefits for energy efficiency installations by taking advantage of the low-interest loan program and a rebate offered by another program for the same measures.

Funding for these latter five programs will be derived by reducing funding for three utility statewide programs, all of which have large budgets, high administrative costs, duplicative program elements, and elements that do not clearly affect real energy savings. Since the success of these programs seem to be measured in audits performed or attendance at seminars rather than how they actually convert to actual energy efficiency implementations and savings, we prefer to divert some of these monies to more highly evaluated programs that will likely result in actual energy savings. Marketing and information programs that must be accountable for positively affecting the results of the energy efficiency programs they support - in this case implementation programs such as Express Efficiency and Standard Performance Contract – will be more targeted and more cost-effective. We direct each utility to modify their PIPs consistent with the discussion below and reduce funding proportionate to their percentage share of the total request for each program.

Statewide Residential Retrofit Home Energy Efficiency Survey. This order authorizes $4.9 million in funding of the $11 million requested. Staff recommended funding of $5.9 million. We find that target market and outreach materials are duplicative with other statewide marketing programs and that administrative costs appear unusually high. We recommend increased collaboration amongst statewide utility partners to tighten budgets. Further, we reduce the funding amount by an additional $1 million and direct the utilities to make up the difference by eliminating or reducing mail-in and online home surveys and marketing, which are less effective than in-person surveys.

Statewide Nonresidential Energy Audit Program. This order funds $8.8 million of the $17.6 million requested by the utilities. Staff recommends $11.9 million for this program. The difference, $3.1 million, should be made up by increasing collaboration amongst the Utilities' common statewide programs and within each utility since the same types of customers are being targeted using the same information and the same marketing vehicles, driving customers to utilize the same statewide utility implementation programs. We commend the Utilities' goals as they state in their proposals to "improve the access to targeted customer groups and minimize the average cost per audit" by utilizing "common marketing promotional material by all of the IOUs." Given that staff's program evaluation notes that the IOUs' own evaluations indicate a low percentage of audits result in actual energy efficiency implementation, we believe that program cost-effectiveness is unclear, especially as it regards audit methods promoted by mail, online, and wireless vehicles. In this regard, we believe that tightening administrative and marketing costs across all programs will make this marketing and information program more cost-effective.

Statewide Energy Efficiency Education and Training Program. The utilities requested $19.7 million for this program, of which staff recommends $16.5 million. We reduce this amount by $4 million because the program is duplicative in substance, target market and much of its program materials with its other marketing and information programs. The program concept states that it will target "services to a variety of market actors, architects, engineers, distributors, and contractors." But it also states that it will target its customers in general and later in the proposal goes on to delineate its outreach to residential customers such as "home buyers, renters, single family residential customers, multifamily residential customers." This market is already targeted in other utility outreach programs. Additionally, this same group of architect and contractor market actors seem to be the same target audience for PG&E's Pacific Energy Center. Additionally, staff notes in their evaluation that while little has changed in substance of program offerings, that proposer has requested nearly a 15% increase in budget. Given that ramp-up costs of program design and materials that should have already been attributed to the previous year's budget, we would think that budget costs would drop in succeeding years, especially given collaboration across the utilities for program content, collateral materials and outreach events such as seminars, tradeshows, community events, etc. Accordingly, marketing and administrative costs seem extremely high. Further, given that success for this program seems to be measured in attendance or audits achieved - and not to actual achieved energy savings through its integral relationship with such utility programs - we believe it is more cost-effective to utilize funds for programs that were more highly evaluated and are likely to achieve real energy savings.

Accordingly, based on the ability to collaborate both amongst the utilities and within the programs themselves, we find that the utilities should use this ability to tighten their budgets among such common elements as administration, collateral, events, etc. We further find, that the utilities should indeed target their programs to market actors such as builders and architects as described in their proposal concept, and direct them not to target residential customers who are already targeted by other utility outreach programs. We also herein direct the utilities to change the way they measure the success of these programs. Specifically, they should not measure success by the number of individuals who attend an event or the number of audits performed but by those who subsequently also take advantage of energy savings programs, which is the ultimate goal of this PUC program. If the IOUs have strong concerns that these decreased funds are necessary to these statewide programs, they have the discretion to utilize procurement energy efficiency funding to supplement the funding awarded here.

This additional $8 million in funding will be combined with the $4.47 million PG&E has available in uncommitted, unspent funds from 2003. This $12.47 million will be available to fund the five programs adopted herein for which the staff did not recommend funding.

Attachment 2 describes in more detail all of the programs for which we order funding fund in this order.

IV. Energy Efficiency Program Administration

Consistent with the intent of D.03-12-060, all programs for which funding is awarded today are subject to the evaluation, measurement and verification procedures and all other reporting, administrative and contracting requirements adopted in D.03-12-060. Parties implementing the proposals funded in today's order shall refer to that order and comply with its requirements.

V. Petition to Modify D.03-08-067 Filed by Robert Mowris

On October 23, 2003, Robert Mowris (Mowris) filed a petition to modify the ALJ's September 12, 2003 ruling adopting utility EM&V plans for program year 2003. Subsequently, on January 22, 2004, Mowris informed the assigned ALJ by electronic communication that he wished to withdraw this pleading because the concerns it raised had been addressed by the utilities. This order grants Mowris' request to withdraw his October 23, 2003 pleading.

VI. Petition to Modify D.03-08-067 Filed by Women's Energy Matters (WEM)

WEM filed a petition to modify D.03-08-067 on September 26, 2003, arguing that the Commission's interpretation of AB 117 is incorrect and that its alleged preference for funding utility energy efficiency programs is unlawful.[2] The petition also raises concerns that the process for reviewing energy efficiency program proposals for 2004-05 funding is "unclear" and "unworkable." It objects to the decision's treatment of Efficiency Partnership on the basis that it grants "obvious favoritism."

SCE filed a response to WEM's petition. SDG&E, SoCalGas and PG&E filed a joint response to WEM's petition. All four utilities object to WEM's

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[2] WEM originally tendered the pleading as an application for rehearing. The Commission filed the pleading as a petition for modification because it was filed after the statutory deadline for filing an application for rehearing, which is 30 days following the issuance of the relevant Commission order.

proposals to change the energy efficiency program selection process and its interpretation of AB 117. SCE states that the Commission's order represents a lawful exercise of the Commission's discretion and that the use of PGC funds for a cost-effective portfolio of programs satisfies AB 117's requirement that energy efficiency programs be cost-effective.

D.03-08-067 set forth the process and criteria for allocating public goods charge revenues to energy efficiency programs. It solicited the ideas and formal proposals of any individual, company or other entity in that regard. In so doing, it arguably implicated AB 117, which addresses certain criteria and procedures for allocating PGC funds to energy efficiency programs.

This Commission interpreted AB 117's relevance to energy efficiency programs in D.03-07-034. WEM and Residential Energy Service Companies United Effort (RESCUE) filed timely applications for rehearing of that order. Their applications for rehearing raised a variety of issues, including those raised by WEM in its September 26, 2003 petition challenging the Commission's interpretation of portions of AB 117. On January 8, 2004, the Commission responded to the applications for rehearing of D.03-07-034 filed by RESCUE and WEM. D.04-01-032 denies the applications for rehearing and affirms the Commission's interpretation of those portions of AB 117 that WEM challenges in its September 26, 2003 petition.

Since the filing of WEM's September 26 petition, the Commission issued D.03-12-060, which applied the procedures and criteria adopted in D.03-08-067 and to which WEM objects. On January 22, 2004, WEM and RESCUE filed applications for rehearing of D.03-12-060. These applications for rehearing are currently pending before the Commission.

Because D.04-01-032 has addressed the issues raised in WEM's petition to modify D.03-08-067 and the Commission may address those issues in response to WEM's pending application for rehearing of D.03-12-060, WEM's petition to modify D.03-08-067 is premature therefore we do not address this motion in this decision.

VII. Joint Motion for Reconsideration of the ALJ Rulings of October 16, 2003 Filed by Community First Coalition and Women's Energy Matters (CFC/WEM)

CFC/WEM filed a motion on October 23, 2003 seeking reconsideration of the ALJ's ruling, dated October 16, 2003. CFC/WEM object to the ALJ's approval of an energy efficiency program pilot plan (Pilot) developed by the City of San Francisco (City) and PG&E in compliance with D.03-04-055. That order approved $16 million in funding for the pilot program in San Francisco, which PG&E and the City stated would reduce peak demand by 16 MW. The ALJ's ruling dated October 16, 2003 approved the Program Implementation Plan (PIP), allowing PG&E and the City to implement the pilot funded by D.03-04-055.

Normally, the Commission does not consider interlocutory appeals to ALJ rulings. In this case, we address the matter here because CFC/WEM's motion raises concerns that the pilot program approved in the PIP relies too heavily on compact fluorescent lighting (CFL), frustrating the Commission's intent that the program promote energy savings during peak periods. CFC/WEM argue that the reliance on CFLs reduces peak savings in summer to 7.1 MW and peak winter savings to 5.6 MW in 10 years. The reason for this reduction in peak savings, according to CFC/WEM, is that the CFLs last only two years. This circumstance makes the entire program not cost-effective and more expensive than alternatives for reducing peak demand in San Francisco. CFC/WEM presents a proposal for a more cost-effective program with alternatives costing about $1300-1400 per average kW compared to its estimated cost of the San Francisco Pilot of about $1,800 per kW over the same period. CFC/WEM asks that PG&E and the City be required to work with local communities in designing a more cost-effective program.

PG&E and the City respond that the CFL program will contribute to long term savings because they anticipate an effective useful life of eight years rather than the two years CFC/WEM assumes. They argue that CFC/WEM's cost-effectiveness analysis differs from the one used in the PIP, showing a cost of under $1,000 for summer peak and winter peak periods.

Normally, the Commission does not consider interlocutory appeals to ALJ rulings. In this case, we address the matter here because CFC/WEM's motion raises important issues and demonstrates considerable knowledge of energy efficiency measures and analysis of costs and benefits. We appreciate CFC/WEM's concerns about the use of CFLs in the pilot program. We concur with its concern, expressed in the ALJ's August 20, 2003 ruling, that PG&E and the City inappropriately assume energy savings for periods that extend well beyond the life of the CFLs they install. PG&E and the City's cost-effectiveness calculations assume savings that may never occur and, where they do, are not necessarily attributable to the pilot program. This assumption artificially inflates the forecast cost-effectiveness of the pilot program and it should not be applied to the final evaluation of the program's success.

Accordingly, we direct the City of San Francisco to submit a modified PIP that addresses these concerns.

VIII. Motion to Mandate Release of Scoring Information Filed by Sesco

On January 14, 2004, Sesco, Inc. filed a "Motion to Mandate Energy Division Release of Scores and To Extend Due Date for Submittal of Additional Support for PY 2004-05 Energy efficiency Programs." Sesco's motion asserts that letters sent to parties who did not receive funding for 2004-05 in D.03-12-060 do not provide scores or adequately explain the reasons that they did not receive funding. Sesco sought an extension of time to submit additional information to support 2004-05 program proposals from January 16, 2004, as required by D.03-12-060 to three to five business days following receipt of information from staff about why D.03-12-060 did not allocate funding the associated to subject energy efficiency program proposals.

D.03-12-060 directed Commission staff to send letters to parties whose energy efficiency program proposals were not funded, identifying their scores and "an explanation of the development of the score." Our objective was to provide parties with some insights about staff's recommendations. In response to our directive, the Commission sent letters to 84 program proponents. We understand that Sesco may not have been satisfied with the extent of the information provided in the staff's letters regarding Sesco's energy efficiency program proposals. Moreover, our staff tried to provide insights to program proponents and implementers designed to improve program elements and delivery, and even if they could not satisfy Sesco's expectations in this case, the Commission staff complied with our directive given the time constraints they experienced. We therefore deny Sesco's motion.

However, Sesco's concerns about providing transparency and the consistent application of the Commission ordered criteria in D.03-08-067 are well taken. In Phase II of this proceeding, we should seek to refine our procedures in communicating our evaluation criteria and results to the parties to provide greater confidence in the transparency and consistency of our process and in assisting the parties in knowing what is expect of them and their proposals. This will go far to create stronger Energy Efficiency proposals and ultimately the best possible Energy Efficiency programs in California.

IX. Motion of PG&E for Authority to Transfer Unspent, Uncommitted 2003 Funds

On January 30, 2004, PG&E filed a motion requesting authority to transfer $4.47 million in unspent, uncommitted funds to the Single Family Energy Efficiency Rebate Program from the budgets of other residential programs and administrative costs for non-utility implementers. PG&E explains that demand for the energy efficiency rebates was higher than expected.

This decision denies PG&E's request to shift 2002-03 funds to the 2002-03 budget of the Single Family Energy Efficiency Rebate Program. We instead authorize PG&E to apply 2004-05 funds for this program to outstanding rebate requests submitted in 2003. We herein apply $4.47 million in unspent funds from 2002 and 2003 to the programs adopted herein for the period 2004-05.

X. Minor Errors in D.03-12-060

Ordering Paragraph 13 of D.03-12-060 directs the utilities to provide a plan for evaluation activities related to local and statewide programs, among other things. D.03-12-060 established a procedure for evaluating local programs separately from statewide programs. Ordering Paragraph 13 is therefore in error and its reference to local program evaluation plans should be deleted. We make that correction in this order.

This order also corrects several tables from D.03-12-060 that included inadvertent errors. Those tables are attached to this decision (Attachment 3) and highlight those values that are corrected. Associated text in D.03-12-060 is corrected consistent with these tables.

D.03-12-060 inadvertently omitted an ordering paragraph to authorize the utilities to spend procurement funds on programs approved by D.03-12-060 for the procurement portfolio established in D.02-03-062. This decision includes such an ordering paragraph.

XI. Comments on Draft Decision

The Commission mailed the draft decision of Administrative Law Judge Kim Malcolm to the parties on January 27, 2004 in accordance with Pub. Util. Code § 311(e) and Rule 77.6 of the Rules of Practice and Procedure. Parties filed comments on ___________________ and reply comments on ____________________.

XII. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner. Meg Gottstein and Kim Malcolm are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. D.03-12-060 stated the Commission's intent to allocate $67 million in PGC funds to efficiency programs and evaluation of them for two years during 2004-05. Consistent with D.03-12-060, Commission staff reevaluated certain program proposals and recommend those identified in this decision and Attachments 1 and 2.

2. D.03-12-060 intended that all programs funded herein would be subject to all of the evaluation criteria, contracting, evaluation and other administrative requirements adopted in D.03-12-060.

3. The programs adopted for funding herein meet the evaluation criteria adopted in D.03-08-067 and affirmed in D.03-12-060.

4. D.03-08-067 did not include as a criteria penalties for past performance by a contractor implementing another program when the program funded has a successful track record according to staff's own analysis.

5. D.03-08-067 did not state the Commission would fund low-income programs only through the LIEE program and instead included as evaluation criteria "diversity of target markets" and "equity by rate class," which suggest our support for funding low-income programs using PGC funds.

6. D.03-08-067 did not direct Commission staff to evaluate a proposal on the basis of whether the proposing company has the existing capacity to expand the program. We instead expected that a company would expand its operations as necessary to meet the requirements of an expanded program.

7. Reducing the budgets of lower scoring programs in order to fund higher scoring programs is consistent with D.03-08-067.

8. The bridge funding ordered in D.03-12-060 is no longer required. Any amount of bridge funding spent on programs authorized herein should be considered part of the budgets of those programs for 2004-05.

9. Mowris notified the ALJ on January 22, 2004 that he wished to withdraw his October 23, 2003, petition to modify the ALJ's September 12, 2003 ruling in this proceeding regarding the utilities' 2003 program EM&V plans.

10. WEM filed a petition to modify D.03-08-067 on legal issues that have been resolved in D.04-01-032 and are the subject of WEM's application for rehearing of D.03-12-060.

11. CFC/WEM's October 23, 2003 motion for reconsideration of the ALJ's October 16, 2003 ruling identifies certain potential infirmities with the City of San Francisco and PG&E's cost-effectiveness analysis of some elements of the City's pilot program.

12. Commission staff provided adequate information to program proponents, consistent with D.03-12-060. New refinements in Phase II in communicating evaluation feedback to proposers will be developed.

13. Ordering Paragraph of D.03-12-060 inadvertently refers to local program evaluation plans, which are treated differently from statewide programs.

14. The tables in D.03-12-060 included several inadvertent minor errors.

15. D.03-12-060 inadvertently omitted an ordering paragraph to authorize the utilities to spend procurement funds on programs approved by D.03-12-060 for the procurement portfolio.

16. PG&E received more requests for rebates in 2003 than expected in its Single Family Energy Efficiency Rebate Program and requests unspent, uncommitted funds from 2002 and 2003 to pay for those rebate requests received in 2003.

17. In using its judgment to develop a proposed energy efficiency program portfolio, Commission staff followed the Commissioner's direction in D.03-08-067.

Conclusions of Law

1. The Commission should adopt the $71 million in program funding and modifications set forth in Attachments 1 and 2.

2. The Commission should require parties for whom funding is authorized herein to comply with all contracting, evaluation, reporting and other administrative requirements adopted in D. 03-12-060.

3. The bridge funding adopted in D.03-12-060 should be discontinued effective today and consistent with Conclusion of Law 4 in D.03-12-060. Funding for related programs should end except to the extent it is expressly authorized herein for 2004-05.

4. Refinements to the Energy Efficiency program's communications process for greater transparency and confidence will be addressed in Phase II of this proceeding.

5. The petition of Mowris to modify the ALJ's September 12, 2003 ruling in this proceeding should be withdrawn, consistent with the wishes of the movant.

6. WEM's September 26, 2003 petition to modify D.3-08-067 is premature at this point because it raises legal issues that have been resolved and are subject of a pending application for rehearing of D.03-12-060 filed by WEM.

7. The cost-effectiveness analysis of the pilot program implemented by PG&E and the City of San Francisco, which was approved in the ALJ's ruling dated October 16, 2003, shall assume only those energy savings from CFLs associated with the CFLs actually installed under the program.

8. PG&E and the City of San Francisco shall submit a modified PIP to reflect the PUC's concern as to the CFL savings data submitted in its implementation plan.

9. Sesco's January 14, 2004 motion for more information from Commission staff regarding program proposal evaluations should be denied.

10. D.03-12-060 should include express authorization for SCE, PG&E and SDG&E to spend procurement funds on energy efficiency programs, consistent with D.03-12-060 and D.03-12-062.

11. PG&E should be authorized to use 2004 funds from its Single Family Energy Efficiency Rebate Program to provide rebates to qualified participants in that program who made rebate requests in 2003 but for which PG&E no longer has 2003 funds.

12. PG&E should be required to carry over $4.47 million in 2002 and 2003 unspent, uncommitted program funds to the programs adopted herein.

13. Ordering Paragraph 13 of D.03-12-060 should be modified to remove reference to local program evaluations.

14. The tables in D.03-12-060 should be corrected as set forth herein.

15. D.03-08-067 did not establish a program proposal evaluation process that assumed proposals would be funded if and only if they received numerical scores exceeding 60 points.

INTERIM ORDER

IT IS ORDERED that:

1. Funding is hereby authorized for programs and in amounts set forth in Attachment 1 of this decision for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) and specified other entities. Parties receiving funding are eligible for no more than the amounts awarded herein. Payments are contingent on reasonable program performance.

2. The "bridge funding" authorized by Ordering Paragraph 3 of D.03-12-060 is terminated, effective today. Any amount of bridge funding spent on the programs authorized herein should be considered part of the approved budgets for those programs.

3. The programs for which funding is adopted herein as described in Attachment 2 are subject to the requirements of D.03-12-060 as set forth in Ordering Paragraphs 5-13 and Ordering Paragraphs 15-19.

4. Ordering Paragraph 13 of D.03-12-060 is modified as follows:

> "Utilities shall jointly develop, file, and serve, within 60 days of the effective date of this order, in consultation with the Energy

> Division and through available informal mechanisms, a plan for the conduct of evaluation activities related to their statewide programs and overarching studies. The utilities should make demonstrable efforts to expand and vary the entities with which they contract to perform these duties. We delegate authority to the assigned ALJ, in consultation with the Energy Division and the Assigned Commissioner, to review and approve the plans for the statewide evaluation studies, overarching studies, and the selected contractors for these studies."

5. Attachment 3 to this order corrects inadvertent errors in D.12-03-060.

6. The joint motion of CFC/WEM for reconsideration of the ALJ's October 16, 2003 ruling is denied.

7. The final evaluation of the pilot program implemented by PG&E and the City of San Francisco, for which funding was approved in D.03-04-055, shall not assume cost savings for CFLs beyond the useful life of the CFLs installed as part of the pilot program.

8. Sesco's January 14, 2003 motion is denied.

9. Robert Mowris & Associates' October 23, 2003 petition is withdrawn.

10. PG&E's January 30, 2004 motion for authorization to transfer certain 2002 and 2003 program funds to its 2003 Single Family Energy Efficiency Rebate Program is denied.

11. PG&E shall carry over unspent, uncommitted funds from 2002 and 2003 to its 2004-05 program budgets as set forth herein.

12. D.03-12-060 is modified to include the final ordering paragraph:

> "PG&E, SCE and SDG&E are authorized to spend the amounts identified and for programs identified in Attachment 3 of D.03-12-060. The utilities shall implement those programs using procurement funds identified in D.03-12-062 and otherwise consistent with this order."

This order is effective today.

Dated ______________________________, at San Francisco, California.